

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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PERRY CELLANA, \*

Petitioner, \*

v. \*

SECRETARY OF HEALTH  
AND HUMAN SERVICES, \*

Respondent. \*

\* \* \* \* \*

No. 12-491V  
Special Master Christian J. Moran

Filed: July 29, 2014

Attorneys' fees and costs; award  
in the amount to which  
respondent does not object.

Elizabeth Muldowney, Rawls, McNelis & Mitchell, Richmond, VA, for Petitioner;  
Lisa A. Watts, United States Dep't of Justice, Washington, DC, for Respondent.

### **UNPUBLISHED DECISION ON FEES AND COSTS<sup>1</sup>**

On July 23, 2014, petitioner filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, petitioner informally submitted a draft application for attorneys' fees and costs to respondent for review. Upon review of petitioner's application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended his application to request \$22,446.86, an amount to which respondent does not object. The Court awards this amount.

On August 7, 2012, Perry Cellana filed a petition for compensation alleging that the influenza ("flu") vaccine, which he received on October 7, 2009, caused him to suffer from various neurologic injuries, to include autoimmune encephalitis and a seizure. Petitioner received compensation based upon the parties'

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

stipulation. Decision, filed May 21, 2014. Because petitioner received compensation, he is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Petitioner seeks a total of **\$21,946.86** in attorneys' fees and costs for his counsel. Additionally, in compliance with General Order No. 9, petitioner states that he incurred **\$500.00** in out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

- a. A lump sum of \$21,946.86 in the form of a check made payable to petitioner and petitioner's attorney, Elizabeth Muldowney, for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**
- b. A lump sum of \$500.00, payable to petitioner, Perry Cellana, for costs he incurred in pursuit of his petition.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran  
Special Master